

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-32867

JESSE JOHN JUTZ,

Debtor.

Chapter 7 Case

**NOTICE OF HEARING
AND
MOTION OBJECTING TO CLAIMED EXEMPTIONS**

TO: The debtor and other entities specified in Local Rule 9013-3.

Paul W. Bucher, the trustee in bankruptcy in this case (the "trustee"), moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this Motion at 10:00 a.m. on September 7, 2004, in Courtroom No. 228B, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

2. Because this Motion is being delivered at least 21 days or mailed at least 24 days before the hearing date, any response to this Motion must be filed and delivered not later than August 31, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than August 28, 2004, which is ten days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over this Motion pursuant to Sections 157 and 1334 of Title 28 of the United States Code, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on May 11, 2004. This case is now pending in this court.

4. This Motion arises under Section 522 of the United States Bankruptcy Code (11 U.S.C. §522), Rule 4003 of the Federal Rules of Bankruptcy Procedure, and Local Rule 4003-1(a). This Motion is filed under Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The trustee requests relief with respect to objections to certain property claimed as exempt by the debtor.

5. The debtor has elected to claim property as exempt under Section 522(b)(2) of the United States Bankruptcy Code. See the attached Schedule C filed in this case.

6. The debtor has claimed the following asset as exempt under the following statute: Valley Bank and Trust Checking Account under Minn. Stat. §550.37, subd. 13. This statute allows debtors to exempt earnings up to 75% and exempt funds on deposit if they can be traced to wages within 20 days of filing bankruptcy. The trustee objects on the grounds that the trustee has insufficient information to determine if the balance on the date of filing was attributable to earnings deposited within the last 20 days. The trustee also objects on the grounds that the debtor has attempted to exempt 100% of the balance in the Valley Bank and Trust Checking Account under this statute.

7. The debtor has claimed the following asset as exempt under the following statute: wedding band under Minn. Stat. §550.37, subd. 4(a). The trustee objects on the grounds that the debtor is only allowed to exempt one watch under Minnesota exemptions and that this statute is unconstitutional because it sets no objective limits for the exemption. See, In re Hilary, 76 B.R. 683 (Bankr. D. Minn. 1987).

8. The debtor has claimed the following assets as exempt under the following statute: 83 White 4-225 Tractor, White 4-150 4917 Tractor, Skid Loader Mustang, and 3 buckets 2060 2602 under Minn. Stat. §550.37, subd. 5. This statute allows a debtor to exempt up to \$13,000 in farm machines and implements used in farming operations, livestock, farm produce, and standing crops. The debtor has exempted \$14,225.42 under this statute. The trustee objects to the claimed exemption on the grounds that the debtor has exceeded the amount allowed under this statute.

9. If oral testimony is necessary at the hearing, the trustee will call the debtor: Jesse J. Jutz, 64640 300th Street, Gibbon, MN 55335, who will testify concerning the Valley Bank and Trust Checking Account, wedding band, 83 White 4-225 Tractor, White 4-150 4917 Tractor, Skid Loader Mustang, 3 buckets 2060 2602, and any other matters, if necessary.

Wherefore, the trustee moves the Court for an order denying the above exemptions claimed by the debtors, and such other relief as the Court finds just and equitable.

Dated: July 28, 2004

/s/ Paul W. Bucher

Paul W. Bucher, Trustee
206 South Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903-0549
Telephone: (507) 288-9111

VERIFICATION

I, Paul W. Bucher, the trustee in bankruptcy in this case and the moving party named in the foregoing Notice of Hearing and Motion Objecting to Claim of Exemption, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on July 28, 2004

/s/ Paul W. Bucher

Paul W. Bucher

206 South Broadway, Suite 505

Rochester, Minnesota 55904

In re Jesse John JutzCase No. 04-32867

Debtor

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☐ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- ☒ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
Checking Account; Valley Bank and Trust, New Ulm, MN 56073	Minn. Stat. § 550.37(13)	100%	6.34
<u>Household Goods and Furnishings</u>			
Household Goods and Furnishings	Minn. Stat. § 550.37(4)(b)	100%	1,000.00
<u>Wearing Apparel</u>			
Clothing (\$30); Watch (\$5)	Minn. Stat. § 550.37(4)(a)	100%	35.00
<u>Furs and Jewelry</u>			
Wedding Band	Minn. Stat. § 550.37(4)(a)	100%	25.00
<u>Accounts Receivable</u>			
1827 bu. delivered to elevator, but debtor not yet paid; Worth approximately \$9.90/bu. (\$18,087.30); Wages due from Treblehorns \$2,202.20	MINN Stat § 550.37 subd 13	75%	20,289.50
Jesses earned but unpaid wages	MINN Stat § 550.37 subd 13	75%	432.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
1999 Ford F-350 Pickup; 152,000 miles	Minn. Stat. § 550.37(12a)	3,600.00	12,000.00
<u>Farming Equipment and Implements</u>			
83 White 4-225 Tractor; Jutz Farms Debt	Minn. Stat. § 550.37(5)	4,725.42	9,500.00
See Attachment B-1 for List of Exempt Equipment	Minn. Stat. § 550.37(5)	9,500.00	9,500.00

In re Jesse John Jutz

Debtor(s)

Case No. _____

SCHEDULE B. PERSONAL PROPERTY
Attachment B-1

List of Exempt Equipment:

Tractor White 4-150 4917 Poor	\$2,000.00
Skid Loader Mustang & 3 buckets 2060 2602 Good	\$7,500.00
83 White 4-225 Tractor (*listed separately on Schedule B- Case Credit has senior claim)	\$4,725.42
TOTAL EXEMPT EQUIPMENT	\$14,225.42 (Debtor will pay bank or trustee \$1,225.42)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In re:

Jesse John Jutz

Debtor.

Bky Case No. 04-32867
Chapter 7

UNSWORN CERTIFICATE OF SERVICE

I, Jennifer M. Albright, declare under penalty of perjury that on July 28, 2004, I mailed copies of the following:

Notice of Hearing and Motion Objecting to Claimed Exemptions and Proposed Order

by United States Mail, postage pre-paid, to each entity named below at the address stated below:

Jesse J. Jutz
64640 300th Street
Gibbon, MN 55335

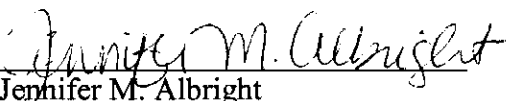
Kurt M. Anderson
P.O. Box 2434
Minneapolis, MN 55402-0434

Ford Motor Credit Company
c/o Stewart, Zlmen & Jungers, LTD.
430 Oak Grove Street, #200
Minneapolis, MN 55403

UNITED STATES TRUSTEE
1015 U S COURTHOUSE
300 SOUTH 4TH STREET
MINNEAPOLIS MN 55415

Executed on July 28, 2004.

Signed:


Jennifer M. Albright
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-32867

JESSE JOHN JUTZ,

Debtor.

Chapter 7 Case

ORDER DENYING CLAIMED EXEMPTIONS

This matter came before the Court on the 7 day of September, 2004, on the Motion of the Trustee Objecting to Claimed Exemptions. Appearances, if any, were noted of record. Based on the file, proceedings and record in this matter:

IT IS HEREBY ORDERED that:

The Trustee's Motion Objecting to Claimed Exemptions is sustained, and accordingly:

1. The debtor's claimed exemption of Valley Bank and Trust Checking Account is denied.
2. The debtor's claimed exemption of a wedding band is denied.
3. The debtor's claimed exemption of a 83 White 4-225 Tractor, White 4-150 4917 Tractor, Skid Loader Mustang, and 3 buckets 2060 2602 is denied.

Dated: _____

Honorable Gregory F. Kishel
United States Bankruptcy Judge